

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

13099

*Trans.  
Booth*

FILE: B-196712

DATE: March 12, 1980

MATTER OF: Charles V. Clark Company, Inc.

*DLG04100*

**DIGEST:**

Bid which offers larger quantity than specified in invitation is responsive where bid does not limit Government's right to make award consistent with needs at price below other bids received.

Charles V. Clark Company, Inc. (CVC) protests the proposed award of a contract to Fibreflex Packing & Manufacturing Co. (Fibreflex) for gasket fiber paper under Invitation for Bids (IFB) DLA 500-79-B-2260, issued by the Defense Industrial Supply Center (DISC). The IFB covers DISC requirements for an aggregate quantity of 6,388 sq. yds. of paper designated Lot I. Lot I consists of 11 separate items (listed as line items 0001-0011) for differing quantities of paper for delivery to various DISC depots in the United States.

*DLG04101*

*AGC00420*

The thrust of the protest is that the Fibreflex bid is nonresponsive because that firm bid 6,450 sq. yds. instead of the 6,388 sq. yds. indicated in the solicitation. In this connection, CVC also points out that if a contract is awarded to Fibreflex for 6,450 sq. yds. of material, that firm could ship up to 5 percent additional material pursuant to the terms of the "variation in quantity" clause, thus exceeding the stated requirement by 385 sq. yds.

Bids were opened on September 14, 1979, with Fibreflex offering the lowest price of \$5 per sq. yd. for a total price of \$32,250 for the 6,450 sq. yds. However, the bid was initially determined to be non-responsive because Fibreflex had bid on the larger quantity rather than the amount specified in the IFB.

[Protest Against Bid OFFERING Larger  
Quantity THAN Specified]

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On October 23, 1979, the contracting officer mailed CVC the contract award in the amount of \$37,970.59 and advised Fibreflex by telephone that its bid had been rejected because it had altered the solicitation quantities.

At Fibreflex's request, the contracting officer reconsidered the decision to reject Fibreflex's bid and reversed his position. In this respect the agency points out that, among other things, nothing in the Fibreflex bid precluded DISC from awarding Fibreflex a contract for the exact quantity specified in the IFB, and that the Fibreflex bid, even for the greater quantity, was \$5,720 less than CVC's. DISC believes that under this circumstance none of the other bidders would be prejudiced by the award to Fibreflex. We agree.

According to Fibreflex, it bid in the manner indicated because it intended to ship the supplies in uniform quantities of 25 sheets each per carton and that it believed the "variation in quantity" clause permitted it to bid the larger quantity. The increased quantity amounts to less than 1 percent of the total quantity specified.

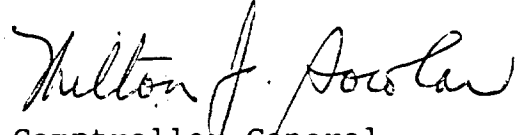
The test for determining the responsiveness of a bid is whether the bidder has unequivocally offered to provide the requested items in total conformance with the terms and specifications of the invitation. Therefore, a bid which takes no exception to the material requirements of the IFB is responsive. Thus, where the bidder has promised to deliver exactly what was called for in the invitation, within the time periods specified, and in accordance with the terms and conditions of the invitation, the bid is responsive. J. Baranello & Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322. Where there has been some deviation from the manner of bidding specified, we have held that the determinative issue of whether a bid should be rejected is whether or not the deviation worked to the prejudice of other bidders. Webfoot Reforestation, B-194214, May 25, 1979, 79-1 CPD 378. We believe that Fibreflex's bid is responsive.

Paragraph 10(c), Standard Form 33A (incorporated by reference into the solicitation), provides that:

"The Government may accept any item or group of items of any offer, unless the offeror qualifies his offer by specific limitations. \* \* \*  
THE GOVERNMENT RESERVES THE RIGHT TO MAKE AN AWARD ON ANY ITEM FOR A QUANTITY LESS THAN THE QUANTITY OFFERED AT THE UNIT PRICES OFFERED  
\* \* \*."

Fibreflex did not qualify its bid in any manner, and thus, pursuant to the foregoing provision, the Government is free to award a contract for the exact quantity specified in the invitation, i.e., 6,388 sq. yds. rather than the 6,450 sq. yds. offered. We therefore do not believe Fibreflex's "deviation" in anyway affected the Government's right to award a contract for the supplies in a manner which would be either inconsistent with the terms of the IFB or prejudicial to the other bidders. See Webfoot Re-forestation, supra. In our view, a bid should not be rejected as nonresponsive merely because it offers more than is required so long as the Government is free to make an award which is consistent with its needs at a price below other bids received, and we do not perceive how other, higher bidders are prejudiced thereby. Cf. EMI Medical, Inc., B-196470, February 21, 1980, 59 Comp. Gen. \_\_\_, 80-1 CPD \_\_\_, a case in which the bidder's descriptive literature indicated bidder's equipment included technical features beyond those required by the specification but was otherwise in accord with the specification. In this respect we point out that even if an award were made for 6,450 sq. yds. and Fibreflex delivered an additional 5 percent pursuant to the variation in quantity clause, the total cost to the Government would still be less than CVC's price for the 6,388 sq. yds.

The protest is denied.

A handwritten signature in cursive script, reading "Milton J. Fowler". The signature is written in dark ink and is positioned above the typed name.

For the Comptroller General  
of the United States